

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

ESSOCIATE, INC.,

Plaintiff,

v.

AZOOOGLE.COM, INC., and EPIC MEDIA
GROUP, INC.,

Defendants.

CASE NO. 3:11-cv-00727-bbc

**DECLARATION OF DEREK LINKE IN SUPPORT OF
ESSOCIATE, INC.'S MOTION FOR LEAVE TO FILE AMENDED
COMPLAINT**

I, Derek Linke, hereby testify and declare as follows:

1. I am an attorney for the plaintiff Essociate, Inc. in the above-entitled action, over the age of eighteen, and competent to testify to the matters herein on the basis of personal knowledge.
2. A true and correct copy of a press release issued by Kinetic Social on January 4, 2012 is attached hereto as **Exhibit A**.
3. A true and correct copy of a webpage from Kinetic Social's website located at <<http://www.kineticsocial.com/history.php>> is attached hereto as **Exhibit B**.
4. A true and correct copy of an online record from the Delaware Secretary of State concerning the formation of Social Assets is attached as **Exhibit C**.
5. Social Assets is the registrant of the domain name <<kineticsocial.com>>.
A true and correct copy of the WHOIS record for that domain name is attached as **Exhibit D**.

6. Social Assets is the owner of a trademark application for KINETIC SOCIAL. A true and correct copy of the U.S. Trademark Office's record for that trademark application is attached as **Exhibit E**.

7. On information and belief, Social Assets was formed by Epic's former executive management. Attached as **Exhibits F–K** are true and correct copies of the public LinkedIn profiles for Don Mathis, Rick Okin, Stephen McDermott, Paul Biondi, Charlie Nowaczek, and Nate Armstrong.

8. Attached as **Exhibit L** is a true and correct copy of an online article from the affiliate marketing industry blog "Performance Marketing Insider" which describes the history of Kinetic Social's (aka Social Assets') formation.

9. A workout specialist recently issued a letter on Epic's behalf detailing Epic's plans to confront its massive debts without filing for bankruptcy. A true and correct copy of that letter is attached as **Exhibit M**.

10. Attached as **Exhibit N** is a true and correct copy of an online article from "Performance Marketing Insider" which explains that Epic's management considered closing the company and filing for bankruptcy.

11. Attached as **Exhibit O** is a true and correct copy of a \$3,500,000 judgment entered against Epic's wholly-owned subsidiary Connexus Corporation, as well as the related entities Firstlook, Inc. and Navigation Catalyst Systems, Inc. in the United States District Court for the Eastern District of Michigan on June 15, 2012.

12. Attached as **Exhibit P** is a true and correct copy of the February 2, 2011 Declaration of Charles Nowaczek filed in the lawsuit referenced in the preceding paragraph.

13. Since this case was filed in October 2011, the parties have exchanged written discovery requests and exchanged responses. There have been no depositions.

14. Attached hereto as **Exhibit Q** is a deposition notice Essociate served on Epic in this action on June 5, 2012, two days before its counsel moved to withdraw.

15. Epic did not appear for the deposition, although its counsel reappeared on Epic's behalf the day before the deposition, after a brief one-month absence.

16. Attached hereto as **Exhibit R** is a true and correct copy of an email I sent to Epic's counsel on July 5, 2012, regarding depositions in this matter.

17. Epic and Essociate have tentatively planned depositions in this matter for the last week of September and the first week of October.

18. Social Assets conducts its business operations in New York City. A true and correct copy of an online record from the New York Secretary of State indicating this is attached as **Exhibit S**.

19. Epic conducts its business operations in New York City. A true and correct copy of Epic's post on the website LinkedIn.com indicating this is attached as **Exhibit T**.

I certify and declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Signed this 6th day of August, 2012 at Seattle, Washington.

s/ Derek Linke
Derek Linke